

## REMARKS

With regard to the objection to the claims, claim 1 has been amended to correct the omission of the word "of" and claims 10 to 37 have been canceled. Claims 1 to 9 remain under consideration.

The method of the subject invention for forming a tactile walking surface structure in place having underfoot detectability includes the following steps. A plurality of pins are provided that each have an upper end head portion and a shank portion. The upper end head portion of each of the pins has a greater diameter than the diameter of the shank portion of each of the pins. A template, having a selected repetitive pattern for establishing locations on the upper surface of the concrete slab of a walkway for drilling holes to receive the shank portions of the pins, is located on an upper surface of a concrete slab of a walkway. The template is used to determine the location of the holes in the upper surface of the concrete slab of the walkway and the holes are drilled in the upper surface of the concrete slab in the selected repetitive pattern of the template. The holes each have a diameter, sized to receive the shank portion of one of the pins, which is less in diameter than the diameter of the upper end head portions of the pins. The holes are each drilled to a greater depth than the length of the shank portion of each of the pins so that the height of the upper end head portion of each of the pins above the upper surface of the concrete slab is a preselected minimum distance when the upper end head portion of the pin is resting on the upper surface of the concrete slab. The holes are located within a defined area of the upper surface of the concrete slab that is at least one foot in width by at least two feet in length and the holes are spaced from each other in the selected hole pattern of the template so that, when the shank portions of the pins are inserted into the holes and bonded to the concrete slab with the upper

end head portions of the pins projecting upward beyond the upper surface of the concrete slab at least the minimum distance, the upper end head portions of the pins in the defined area of the upper surface of the concrete slab form a walking surface having underfoot detectability. The shank portions of the pins are then inserted into the holes with the upper end head portions of the pins resting on the upper surface of the concrete slab and projecting upward beyond the upper surface of the concrete slab at least the minimum distance and the pins are bonded to the concrete slab to form a walking surface having underfoot detectability.

Of the claims remaining under consideration, Claims 1 to 4 have been rejected under 35 USC 103(a) as being unpatentable over the McCuskey patent (US Patent No. 6,709,191).

In the background of the invention, the McCuskey patent discloses a method of forming a tactile indicator on a walkway surface with markers wherein a grid of holes is drilled in an existing walkway and elongated pins extending out from underside of the markers are inserted into and bonded within the holes. The McCuskey patent further discloses a method for forming a tactile indicator on a walkway surface that is to supersede the above method. The method of the McCuskey patent utilizes path finder indicators (shown in Figures 11 to 13) that are preferably injection molded from polyurethane, have head portions 26, and circular flange portions 27. The indicators are inserted into circular apertures drilled in a walkway surface with the peripheries 26a of the head portions preferably protruding out past the flanges 27 sufficiently to overlap the aperture and conceal any edge cracks or defects.

Claim 1, as amended, defines a method wherein a template, having a selected repetitive pattern for establishing locations on the upper surface of the concrete slab of a walkway for drilling holes to receive the shank portions of the pins forming the tactile walking surface, is located on an upper surface of a concrete slab of a walkway. The

template is then used to determine the location of the holes in the upper surface of the concrete slab of the walkway and the holes are drilled in the upper surface of the concrete slab in the selected repetitive pattern of the template. With the method of the subject invention, the laborious and time consuming procedure required for the placement of the holes in the walkway surface discussed in the background of the invention of the McCuskey patent is eliminated. The use of the template in the method of the subject invention assures that the holes for the pins forming the tactile walking surface of the subject invention can be quickly and exactly located and drilled in the walkway in a repetitive pattern, even with unskilled labor, to provide a tactile walking surface wherein the pins are precisely located in the selected repetitive pattern desired for the tactile surface. The McCuskey patent, even though aware of the problem in the prior art and proposing the use of hazard indicators that have to be inserted into drilled holes, fails to disclose or suggest the use of a template, such as that set forth in claim 1, to overcome the problem and provide a method wherein the holes for the indicators can be quickly and accurately located and drilled in a walkway in a selected repetitive pattern with unskilled labor. In view of the amendments to claim 1 and for the reasons set forth above, claim 1 and the claims depending there from patentably distinguish the method of the subject invention over the McCuskey patent. Accordingly, the withdrawal of the rejection of claims 1 to 4 as unpatentable over the McCuskey patent and the allowance of claims 1 to 4 is solicited.

Claim 19 has been rejected under 35 USC 103(a) as being unpatentable over the McCuskey patent (US Patent No. 6,709,191) as applied to claim 18 above, and further in view of the Palazzotto et al patent (US Patent No. 5,822,120). The method set forth in claims 1 to 9 has been amended to include the use of a template having a selected repetitive pattern for establishing locations on the upper surface of a concrete slab of a

walkway for drilling holes in the concrete slab to receive the shank portions of the pins forming the tactile warning surface.

The Palazzotto et al patent discloses layered retroreflective elements for use as pavement markings to guide or direct motorists traveling on a roadway such as the elements shown in Figures 1 and 2 of the patent, a method of making the layered retroreflective elements, and a method of making a panel with the layered retroreflective elements adhered to the panel by adhesive applied to the panel through a random pattern of holes in a template. Thus, the Palazzotto et al patent discloses a method of making a panel with a plurality of layered retroreflective elements randomly located on its upper surface. Such a panel were it to be used on a roadway would have the same disadvantages as the ceramic or rubber tiles with integral markers referred to in the background of the invention of the McCuskey patent and the preformed tactile warning panels referred to in the background of the invention in the subject patent application in that a portion of the surface of an existing roadway would have to be cut away to fit the panel. The Palazzotto et al patent was published three years prior to the McCuskey patent and still there is no suggestion in the McCuskey patent of using a method to form a tactile warning surface employing a template with a random pattern to locate where a pavement is to be drilled to insert pins or indicators to form a tactile warning surface let alone a template with a repetitive pattern such as used in the method of the subject invention for locating where holes are to be drilled in a walkway to insert pins for the formation of a tactile warning surface. Thus, neither the McCuskey patent nor the Palazzotto patent disclose or suggest a method for forming a tactile warning surface in a walkway that uses a template with a repetitive pattern for establishing locations on the upper surface of a concrete slab for drilling holes to receive pins or indicators that form the tactile warning surface. As discussed above, the use of the template in the method of the subject invention assures that the holes for the pins forming the tactile walking

surface of the subject invention can be quickly and exactly located and drilled in the walkway in a repetitive pattern, even with unskilled labor, to provide a tactile walking surface wherein the pins are precisely located in the selected repetitive pattern desired for the tactile surface and to eliminate the laborious and time consuming procedure required for the placement of the holes in the walkway surface discussed in the background of the invention of the McCuskey patent. In view of the amendments to claim 1 and for the reasons set forth above, claim 1 and claims 2 to 9 patentably distinguish the method of the subject invention over the McCuskey patent and the Palazzotto et al patent. Accordingly, the allowance of claim 1 and claims 2 to 9 over the McCuskey patent and the Palazzotto et al patent is solicited.

Claims 5 to 8 have been rejected under 35 USC 103(a) as being unpatentable over the McCuskey patent (US Patent No. 6,709,191) as applied to claim 4 above, and further in view of the Foster et al patent (US Patent No. 2,321,476).


The Foster et al patent discloses a marker 3 made from metal, ceramic materials, cement, glass, etc. The marker 3 has a central hole 5 through which an anchoring bolt or pin 6 passes to secure the marker to a pavement by driving an anchoring bolt or pin 6 into a wooden plug 7 placed in the pavement. Tar may be applied to the bottom surface of the marker 3 to help secure the marker to the pavement.

Claims 5 to 8 depend from claim 4 and are patentable for the same reasons discussed above in connection with claims 4. In addition, claims 5 and 6 define a method wherein the pins used in the method, which have a head portion and a shank portion, are made from a cementitious material having a compressive strength equal to or greater than the concrete slab and a coefficient of thermal expansion substantially the same as that of the concrete slab. The bolt or pin 6 of the Foster et al patent used to secure the marker 3 to the wooden plug in the pavement by being driven into the wooden plug appears to be a metal bolt or pin and there is no suggestion that the bolt or

pin 6 is made of cementitious material as required by claims 5 and 6. In view of the amendments to claim 1 and consequently to claims 5 to 8 and for the reasons set forth above, claim 5 to 8 patentably distinguish the method of the subject invention over the McCuskey patent, the Palazzotto et al patent, and the Foster et al patent. Accordingly, the allowance of claims 5 to 8 over the McCuskey patent, the Palazzotto et al patent, and the Foster et al patent is solicited.

Claim 9 has been rejected under 35 USC 103(a) as being unpatentable over the McCuskey patent (US Patent No. 6,709,191) and the Foster et al patent (US Patent No. 2,321,476) as applied to claim 8 above, and further in view of the Webster patent (US Patent No. 1,966,227). While the Webster patent discloses split pins 31 and 32 securing a traffic marker 33 to a roadway wherein the split pins are driven into a hole filled with asphalt. There is a space between the split pins and the sidewall of the hole. However, the Webster patent does not otherwise supplement the disclosures of the McCuskey patent, the Palazzotto et al patent, and the Foster et al patent. In view of the amendments to claim 1 and for the reasons set forth above, claim 1 and the claims depending there from patentably distinguish the method of the subject invention over the McCuskey patent, the Palazzotto et al patent, the Foster et al patent, and the Webster patent. Accordingly, the allowance of claim 9 over the McCuskey patent, the Palazzotto et al patent, the Foster et al patent, and the Webster patent is solicited.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John D. Lister", is written over a horizontal line. The signature is fluid and cursive.

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